

**IN THE UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF FLORIDA**

TO: All Attorneys

FROM: Judge Lewis M. Killian, Jr.

RE: Telephonic Hearings

DATE: February 29, 2000

As you all know, this court handles the preliminary hearings on stay relief motions as provided for under section 362(e) of the Bankruptcy Code by telephone conference calls. These hearings are held on Monday afternoons and are scheduled to be held within 30 days from the filing of the motion, as required by section 362(e). Telephonic hearings are held in order to insure compliance with the 30 day requirement of section 362(e) and for the convenience of all parties involved.

Pursuant to Local Rule 4001-1, only those motions for relief for which a response objecting to the request are set for hearing when a motion is filed, the party requesting the relief is given a date and time block during which time a hearing, if required, will be held. If a response objecting to the motion is filed, a specific time will be assigned and the moving party will be so notified. Hearings are scheduled at 15 minute intervals to allow sufficient time for each motion. The court hires, and is obligated to pay, a court reporter for the time scheduled for the hearings.

In past years, a hearing would not be removed from the stay calendar unless the court received written notification of a settlement or other disposition prior to the scheduled hearing. Once again, for the convenience of the parties, the court now allows stay hearings to be taken off the calendar based on telephonic notification that the matter has been resolved.

Even with the new procedure for removing motions from the calendar, all too frequently, the parties wait until the scheduled hearing time to either resolve the matter with opposing counsel or to advise the court of an agreement. When this happens, the result is that the judge, courtroom deputy and court reporter (at the court's expense) have just wasted a significant amount of time waiting for a hearing that is not required. Because of counsels' failure to resolve these matters in advance or to notify the court prior to the scheduled hearing time, the judge and court reporter may spend two or more hours sitting around with only one or two brief hearings actually conducted. This situation can no longer continue.

When a response is filed to a relief from stay motion, the parties should promptly attempt to agree to an adequate protection order and notify the court once an agreement is reached. In any event, the court should be notified not later than noon on the day of the scheduled hearing of any resolutions reached. That way, the only calls that the court should receive during the hearing time block will be those which are actually contested.

Remember that the procedure currently utilized by the court is for the convenience of the parties. If the parties continue to abuse it, the court will have no choice but to implement a new, less convenient procedure.

Your cooperation will be appreciated.